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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 477 1

NORTHERN PACIFIC RAILWAY COMPANY, NORTHERN PACIFIC RAILROAD COMPANY, ET AL.,
Appellants,

vs.

THE UNITED STATES OF AMERICA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF WASHINGTON.

STATEMENT AS TO JURISDICTION.

L. B. da Ponte,
F. J. McKevitt,
D. R. Frost,
Counsel for Appellants.

White & Case,
Taylor, Blanc, Capron & Marsh,
Of Counsel.

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INDEX.

Subject Index.

	Page
Statement as to jurisdiction	1

Statutes Cited.

Act of July 2, 1864	2
Act of June 25, 1929 (46 Stat. 41)	2
Act of May 22, 1936 (49 Stat. 1369)	3
Equity Rule No. 29	2
Joint Resolution of May 31, 1870	2

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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

IN EQUITY.

No. E-4389

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NORTHERN PACIFIC RAILWAY COMPANY, A CORPORATION; NORTHERN PACIFIC RAILROAD COMPANY, A CORPORATION; NORTHERN PACIFIC RAILROAD COMPANY, AS REORGANIZED IN 1875; NORTHWESTERN IMPROVEMENT COMPANY, A CORPORATION; BANKERS TRUST COMPANY, A CORPORATION; GUARANTY TRUST COMPANY, A CORPORATION; CITY BANK FARMERS TRUST COMPANY, A CORPORATION,

Defendants.

JURISDICTIONAL STATEMENT.

Filed in the U. S. District Court, Eastern Dist. of Washington, August 21, 1939. A. A. LaFramboise, Clerk.

This suit was instituted by the United States against the Northern Pacific Railway Company, Northern Pacific Railroad Company, Northwestern Improvement Company, Bank

ers Trust Company, Guaranty Trust Company, and Cit Bank Farmers Trust Company in the District Court for the Eastern District of Washington. It is in form a bill to quiet title in the United States to approximately 2,900,000 acres of lands withdrawn from the indemnity limits of the grant to the Northern Pacific Railroad Company by the Act of July 2, 1864, and the Joint Resolution of May 31, 1870. The complaint was filed July 31, 1930, pursuant to the Act of June 25, 1929 (46 Stat. 41). After answer, the cause was referred to a Special Master for a report upon certain demurrers and pleas directed to the complaint under Equity Rule 29. The Master filed his report upon these issues on May 31, 1933. Exceptions of both parties were overruled and the report confirmed and adopted by the District Court by order dated October 3, 1935, amended by order dated January 29, 1936. By order dated April 21, 1936, the cause was again referred to the Master to report upon the adjustment of the grant, including all remaining issues, except value of the lands, and amount of compensation for the lands retained by the United States under said Act of June 25, 1929. The Master made his report covering the adjustment of the grant on July 26, 1937. The United States took numerous exceptions to the report and defendants took exception on one point, known as the Tacoma Overlap point. Defendants' exceptions were overruled by order dated March 22, 1938. This order reserved ruling on certain other exceptions. On the 27th day of June, 1939, a further and final order on the exceptions was entered. On said 27th day of June, 1939, findings and conclusions and a decree were entered. By paragraph IX of the decree it is adjudged that the withdrawal by the United States of 213,001.66 acres from the second indemnity limits of the grant of May 31, 1870, in the State of Washington, described in Schedule K attached to said decree, was valid and that said lands should be retained by the United States without pay-

ment of compensation to defendants. This decree was entered upon the second report of the Master made pursuant to said order of reference of April 21, 1936. From the decree entered on said order either party is given the right of direct appeal to this Court by the special appeal act of May 22, 1936 (49 Stat. 1369), within sixty days from the date of said decree, namely, June 27, 1939. Defendants, Northern Pacific Railway Company *et al.*, duly perfected their appeal within sixty days from date of said decree of June 27, 1939, by petition for appeal and order allowing same, dated the 21st day of August, 1939, and filing of bond on said date. The jurisdiction of this Court, therefore, is firmly rested upon said Act of May 22, 1936.

Dated August 21, 1939.

L. B. DA PONTE,
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